

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

MARTIN SHKRELI, et al.,

Defendants.

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ORDER

15-CV-7175 (KAM) (JRC)

**FINAL JUDGMENT AS TO DEFENDANTS MSMB CAPITAL
MANAGEMENT LLC AND MSMB HEALTHCARE MANAGEMENT LLC**

WHEREAS, the Securities and Exchange Commission having filed a Complaint and Defendants MSMB Capital Management LLC (“MSMB Adviser”) and MSMB Healthcare Management LLC (“MSMB Healthcare Adviser”) (together, “Defendants”) having waived the service of summons (ECF Nos. 7-8, entered January 12, 2016);

WHEREAS, on February 25, 2022, the Court entered an Order to Answer directing Defendants to answer, move, or otherwise respond to the complaint herein by March 18, 2022;

WHEREAS, on April 12, 2022, the Clerk of the Court entered a Certificate of Default (ECF No. 59) that Defendants have not filed an answer or otherwise moved with respect to the complaint herein, and noted the defaults of Defendants;

WHEREAS, the Commission has moved for entry of judgment by default against Defendants, and has indicated that it determined to withdraw the claims for disgorgement and prejudgment interest;

WHEREAS, the Court has determined to grant the Commission’s motion;

NOW, THEREFORE:

I.

IT IS ORDERED, ADJUDGED, AND DECREED that Defendants MSMB Adviser and MSMB Healthcare Adviser are permanently restrained and enjoined from violating Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)] by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (1) employing any device, scheme, or artifice to defraud a client or prospective client; or
- (2) engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon a client or prospective client.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendants’ officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant MSMB Adviser is permanently restrained and enjoined from violating Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 promulgated thereunder [17 C.F.R. § 275.206(4)-8], while acting as investment adviser to a pooled investment vehicle, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (1) making untrue statements of a material fact or omitting to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to investors or prospective investors in the pooled investment vehicle, or

(2) otherwise engaging in acts, practices, or courses of businesses that were fraudulent, deceptive or manipulative with respect to investors or prospective investors in the pooled investment vehicle.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in **Federal Rule of Civil Procedure 65(d)(2)**, the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant MSMB Adviser shall pay a civil penalty in the amount of \$1,450,000, and Defendant MSMB Healthcare Adviser shall pay a civil penalty in the amount of \$725,000, to the Securities and Exchange Commission pursuant to pursuant to Section 209(e) of the Advisers Act [**15 U.S.C. § 80b-9(e)**]. Defendants shall make this payment within 30 days after entry of this Final Judgment.

Defendants may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendants may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of

this Court; MSMB Adviser and MSMB Healthcare Adviser as defendants in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendants shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making these payments, Defendants relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendants. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

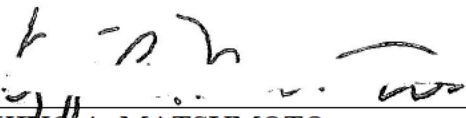
The Commission may enforce the Court's judgment for penalties by the use of all collection procedures authorized by law, including the Federal Debt Collection Procedures Act, **28 U.S.C. § 3001** *et seq.*, and moving for civil contempt for the violation of any Court orders issued in this action. Defendants shall pay post-judgment interest on any amounts due after 30 days of the entry of this Final Judgment pursuant to **28 USC § 1961**.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

SO ORDERED.

Dated: July 21, 2023
Brooklyn, New York



KIYO A. MATSUMOTO
United States District Judge
Eastern District of New York